

BEFORE THE BOARD OF SANITARIANS  
DEPARTMENT OF LABOR AND INDUSTRY  
STATE OF MONTANA

In the matter of the proposed amendment ) NOTICE OF PUBLIC HEARING  
of ARM 24.216.402 fee schedule, ) ON PROPOSED AMENDMENT  
24.216.502 minimum standards for )  
licensure, and 24.216.503 examination )

TO: All Concerned Persons

1. On July 26, 2007, at 9:00 a.m., a public hearing will be held in room 471, 301 South Park Avenue, Helena, Montana to consider the proposed amendment of the above-stated rules.

2. The Department of Labor and Industry (department) will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the Board of Sanitarians (board) no later than 5:00 p.m., on July 20, 2007, to advise us of the nature of the accommodation that you need. Please contact Chris Bernet, Board of Sanitarians, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2334; Montana Relay 1-800-253-4091; TDD (406) 444-2978; facsimile (406) 841-2309; e-mail [sanitarian@mt.gov](mailto:sanitarian@mt.gov).

3. The rules proposed to be amended provide as follows, stricken matter interlined, new matter underlined:

24.216.402 FEE SCHEDULE (1) through (7) remain the same.

(8) In addition to the examination fees specified in this rule, there is a vendor fee set by the exam vendor. Current fee amounts for the sanitarian examination are available at the board office.

AUTH: 37-1-134, 37-40-203, MCA

IMP: 37-1-134, 37-1-141, 37-40-101, 37-40-301, 37-40-302, MCA

REASON: The board determined it is reasonably necessary to amend this rule to clarify for applicants the existence of the exam vendor fee. The board collects this fee from applicants and passes it along to the exam vendor. The board does not retain any portion of the fee and does not profit from the transaction, thus this amendment results in no fiscal impact. This amendment will enable the board to adjust the fee in sync with exam vendor changes without amending the fee rule.

24.216.502 MINIMUM STANDARDS FOR LICENSURE (1) The board ~~will~~ may accept graduation from an accredited college or university with a bachelor's degree and including a minimum of ~~30~~ 45 quarter or ~~20~~ 30 semester hours in the physical and biological sciences, including courses in chemistry, microbiology, and

biology as an equivalent qualification of a bachelor's degree in environmental health as required by 37-40-302, MCA.

(2) ~~The board will review microbiology correspondence courses on a case-by-case basis for appropriate equivalency.~~ A holder of current National Environmental Health Association (NEHA) registration is qualified to be registered as a sanitarian in the state of Montana.

AUTH: 37-1-131, 37-40-203, MCA

IMP: 37-40-302, MCA

REASON: It is reasonable and necessary to amend this rule to allow the board discretion in approving or denying applications submitted under these equivalency standards. The board determined that situations may exist where an applicant meets the minimum educational equivalency but is still not qualified to become a registered Montana sanitarian, and the amendment allows the board discretion in evaluating the entire application.

The board is amending this rule to increase the minimum number of quarter and semester hours required as equivalent to an environmental health bachelor's degree to match current NEHA requirements. The board determined that requiring more equivalency hours will help ensure that equivalency standard applicants are qualified for Montana registration and help maintain the integrity of the profession.

It is reasonably necessary to delete (2) as the board reviews all courses and transcripts on a case-by-case basis, and it is not necessary to specify any one course. The board is also amending this rule to allow applicants holding current NEHA sanitarian credentials to become registered Montana sanitarians without proving any further qualifications. The board determined that NEHA's qualifications are substantively equivalent to or greater than Montana's current standards and any holder of a current NEHA registration is duly qualified for Montana registration. Authority cites are being amended to provide the complete sources of the board's rulemaking authority.

24.216.503 EXAMINATION (1) remains the same.

(2) An overall score of ~~70%~~ 68 percent will be required to pass the examination.

(3) remains the same.

(4) Applicants who fail the examination and wish to reschedule to take the examination must pay the reexamination ~~examination~~ fee, and schedule and sit for the examination ~~within 30 days of the last examination date~~. Applicants who fail the examination twice shall wait 60 days before taking the examination again.

(5) and (6) remain the same.

AUTH: 37-1-131, 37-40-203, ~~37-40-302~~, MCA

IMP: 37-1-131, 37-40-302, MCA

REASON: The board determined it is reasonably necessary to amend this rule to align the board's examination score requirement with NEHA's current requirement. The board is amending ARM 24.216.502 to allow applicants with current NEHA

certification to qualify for Montana registration as sanitarians, and this amendment is necessary to comply with and further facilitate the change.

The board is deleting the requirement for applicants to retake failed examinations within 30 days as unreasonable and unnecessary. The board concluded that the 30-day requirement is not feasible due to the time it takes to receive the first exam results, and then order, schedule, and sit for a reexamination. The board found no compelling reason to require applicants retake at the earliest possible opportunity and concluded that candidates should be able to sit for reexaminations when they consider themselves sufficiently prepared. Authority and implementation cites are being amended to accurately reflect all statutes implemented through the rule and to provide the complete sources of the board's rulemaking authority.

4. Concerned persons may present their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to the Board of Sanitarians, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2309, or by e-mail to [sanitarian@mt.gov](mailto:sanitarian@mt.gov), and must be received no later than 5:00 p.m., August 3, 2007.

5. An electronic copy of this Notice of Public Hearing is available through the department and board's site on the World Wide Web at [www.sanitarian.mt.gov](http://www.sanitarian.mt.gov). The department strives to make the electronic copy of this Notice conform to the official version of the Notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the Notice and the electronic version of the Notice, only the official printed text will be considered. In addition, although the department strives to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems, and that technical difficulties in accessing or posting to the e-mail address do not excuse late submission of comments.

6. The board maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this board. Persons who wish to have their name added to the list shall make a written request which includes the name and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding all board administrative rulemaking proceedings or other administrative proceedings. Such written request may be mailed or delivered to the Board of Sanitarians, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, faxed to the office at (406) 841-2309, e-mailed to [sanitarian@mt.gov](mailto:sanitarian@mt.gov), or made by completing a request form at any rules hearing held by the agency.

7. The bill sponsor notice requirements of 2-4-302, MCA, do not apply.

8. Don Harris, attorney, has been designated to preside over and conduct this hearing.

BOARD OF SANITARIANS  
TED KYLANDER, R.S., CHAIRPERSON

/s/ DARCEE L. MOE  
Darcee L. Moe  
Alternate Rule Reviewer

/s/ KEITH KELLY  
Keith Kelly, Commissioner  
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State June 25, 2007